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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,075	01/23/2002	Mahmoud Torabinejad	D-6901	7374
23377	7590	03/09/2006	EXAMINER	
WOODCOCK WASHBURN LLP ONE LIBERTY PLACE, 46TH FLOOR 1650 MARKET STREET PHILADELPHIA, PA 19103			JAGOE, DONNA A	
			ART UNIT	PAPER NUMBER
			1614	

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 12, 2005 has been entered.

The amendment filed December 12, 2005 has been received and entered. Claims 34, 47-56, 58, 61, 62, 64, 66, 67, 69, 71, 72, 74, and 75 have been amended and claims 76-80 have been canceled. Claims 34-58 and 60-75 are pending in this application.

Rejection of claims 34-58 under 35 U.S.C. §102(b)/103(a) is no longer maintained in view of the amendment and Declaration submitted December 12, 2005.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 34-58 and 60-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Procter & Gamble Co. WO 01/28339 A2.

Procter & Gamble teach an antimicrobial composition comprising an organic acid, the composition having a **pH of from 1 to 7**(see abstract). Citric acid is recited on page 7, line 27. The composition comprises from 0.1 to about 10% of the organic acid (page 7, line 33). Surfactants such as polysorbate 80 are included (see page 22, line 3) in amounts of from 0.1% to about 10% (page 19, lines 20-24). Antimicrobial agents are included such as tetracycline and doxycycline (page 25, lines 29-31) in amounts of from 0.001% to about 10% (page 25, lines 24-28).

It differs in that it does not teach the composition to be sterile. However, the composition of the prior art is employed in, for example, wet wipes suitable for surgical

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preparation wipes. It would be necessarily sterile in order to be employed as a surgical prep wipe.

It does not teach composition in the amounts of 3% disinfectant, 0.5% detergent and 4.25% Acid, however, the amounts recited above overlap and encompass the claimed amounts of disinfectant, detergent and organic acid. Therefore It would have been obvious to one of ordinary skill in art at the time it was made to employ the recited amounts of disinfectant, detergent and organic acid motivated by the teachings of Procter and Gamble comprising a composition of from 0.1 to about 10% of the organic acid (page 7, line 33), a detergent (surfactant) of from 0.1% to about 10% (page 19, lines 20-24) and disinfectant (antimicrobial agent) in amounts of from 0.001% to about 10% (page 25, lines 24-28).

It is further noted that the prior art does not teach the pKa of no greater than 5.

However, the pH of the prior art composition is from 1 to 7. Gleaned from knowledge in the Declaration submitted on December 12, 2005, a composition comprising citric acid as the organic acid with a pKa of 3.128, for example, would have a pH of 2.38 at a concentration of 0.5%. This is within the teachings of Procter and Gamble wherein the concentration of the organic acid is from 0.1 to 10% (page 7, line 33) and the pH is from 1 to 7. It would have been obvious to one of ordinary skill in art at the time it was made to employ at least 0.5% of an organic acid that has a pKa of no greater than 5 motivated by the teaching of Procter and Gamble who teaches a composition comprising an organic acid in an amount of from 0.1 to 10% and a pH of from 1 to 7.

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It is noted that the reference does not teach that the composition can be used in the manner instantly claimed, i.e. for removing a smear layer from a prepared endodontic surface, orthopedic surface and a prepared tooth surface, however, the intended use of the claimed composition does not patentably distinguish the composition, per se, since such undisclosed use is inherent in the reference composition. In order to be limiting, the intended use must create a structural difference between the claimed composition and the prior art composition. In the instant case, the intended use does not create a structural difference, thus the intended use is not limiting.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donna Jagoe whose telephone number is (571) 272-0576. The examiner can normally be reached on Monday through Thursday from 9:00 A.M. - 3:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low can be reached on (571) 272-0951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Donna Jagoe
Patent Examiner
Art Unit 1614

March 6, 2006



CHRISTOPHER S. F. LOW
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600